IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 1 OF 2007

Shri Aveline J. Pinto,
Major of age, H.No.10/7,
Behind Jerry Coffin,
Opp. Asilo Hospital,
Mapusa, Goa. ... Petitioner

versus

State of Goa through
CID Police or Public Prosecutor
at Panaji. ... Respondent

Mr. Nigel Costa Frias, Advocate under the Legal Aid Scheme for the Petitioner.

Mr. C. A. Ferreira, Public Prosecutor for the State/Respondent.

CORAM : N. A. BRITTO, J.

DATE : 7TH FEBRUARY, 2007.

ORAL ORDER

Heard the learned Counsel Mr. Nigel Costa Frias on

behalf of the accused and the learned Public Prosecutor Mr. C. A. Ferreira on behalf of the respondent.

2. The learned Additional Sessions Judge by his Order dated 20-7-2006, after perusing the case papers has ordered framing of charge against the accused under Sections 376, 354, 342, 506(II) I.P.C. No doubt, there was delay of about a year in lodging the complaint but delay at the most will be relevant for the purpose of appreciating the facts stated in the complaint. The settled principle of law is that the delay cannot be used as a ritualistic formula for doubting prosecution case and discarding the same solely on that ground. Delay has the effect of putting the Court on its guard to search for any plausible explanation, and if offered whether it is satisfactory or not. As rightly stated by the learned Additional Sessions Judge, the truth, veracity and the effect of the evidence which the Prosecutor proposes to adduce cannot be gone into at the stage of framing of charge. As stated by the Supreme Court in **Niranjan Singh Karam Singh Punjabi** v. **Jitendra Bhimraj Bijjayya**(AIR 1990 SC 1962) at the stage of framing of charge the inquiry must necessarily be limited to decide if the facts emerging from such materials

constitute the offence with which the accused could be charged and the Court will peruse the records for that limited purpose and it is not required to marshal with a view to decide the reliability thereof. The complaint in this case and the medical report are more than sufficient to order the framing of the charge against the accused under Sections 376, 342 and 506(II) I.P.C. The Order dated 20-7-2006 of the learned Additional Sessions Judge could not be faulted.

3. There is no merit in this petition. The same is hereby dismissed.

N. A. BRITTO, J.

RD